

INITIATIVE 1240

To the People

Chapter 2, Laws of 2013
Regular Session

Public Charter Schools

EFFECTIVE DATE: December 6, 2012

Approved by the
People of the State of Washington
in the General Election on
November 6, 2012

ORIGINALLY FILED

May 31, 2012

Secretary of State

1 AN ACT Relating to public charter schools; amending RCW
2 28A.150.010, 28A.315.005, and 41.05.011; adding a new section to
3 chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding a
4 new section to chapter 41.40 RCW; adding a new section to chapter 41.56
5 RCW; adding a new section to chapter 41.59 RCW; and adding a new
6 chapter to Title 28A RCW.

7 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

8 **PART I**
9 **INTENT, PURPOSE, AND FINDINGS**

10 NEW SECTION. **Sec. 101.** (1) The people of the state of Washington
11 in enacting this initiative measure find:

12 (a) In accordance with Article IX, section 1 of the state
13 Constitution, "it is the paramount duty of the state to make ample
14 provision for the education of all children residing within its
15 borders, without distinction or preference on account of race, color,
16 caste, or sex";

17 (b) All students deserve excellent educational opportunities and
18 the highest quality standards of public education available;

1 (c) Many of our public schools are failing to address inequities in
2 educational opportunities for all students, including academic
3 achievement, drop-out rates, and other measures of educational success
4 for students across all economic, racial, ethnic, geographic, and other
5 groups;

6 (d) It is a priority of the people of the state of Washington to
7 improve the quality of our public schools and the education and
8 academic achievement of all students throughout our state;

9 (e) Forty-one states have public charter schools with many ranked
10 higher in student performance than Washington's schools;

11 (f) Allowing public charter schools in Washington will give parents
12 more options to find the best learning environment for their children;

13 (g) Public charter schools free teachers and principals from
14 burdensome regulations that limit other public schools, giving them the
15 flexibility to innovate and make decisions about staffing, curriculum,
16 and learning opportunities to improve student achievement and outcomes;

17 (h) Public charter schools are designed to find solutions to
18 problems that affect chronically underperforming schools and to better
19 serve at-risk students who most need help;

20 (i) Public charter schools have cost-effectively improved student
21 performance and academic achievement for students throughout the
22 country, especially for students from the lowest-performing public
23 schools;

24 (j) Public charter schools serving low-income, urban students often
25 outperform traditional public schools in improving student outcomes and
26 are closing the achievement gap for at-risk students;

27 (k) The Washington supreme court recently concluded, in *McLeary v.*
28 *State*, that "The State has failed to meet its duty under Article IX,
29 section 1 [to amply provide for the education of all children within
30 its borders] by consistently providing school districts with a level of
31 resources that falls short of the actual costs of the basic education
32 program";

33 (l) The opportunity to provide education through public charter
34 schools will create efficiencies in the use of the resources the state
35 provides to school districts;

36 (m) Public charter schools, as authorized in chapter . . . , Laws of
37 2013 (this act), are "common schools" and part of the "general and

1 uniform system of public schools" provided by the legislature as
2 required by Article IX, section 2 of the state Constitution; and

3 (n) This initiative will:

4 (i) Allow a maximum of up to forty public charter schools to be
5 established over a five-year period as independently managed public
6 schools operated only by qualified nonprofit organizations approved by
7 the state;

8 (ii) Require that teachers in public charter schools be held to the
9 same certification requirements as teachers in other public schools;

10 (iii) Require that there will be annual performance reviews of
11 public charter schools created under this measure, and that the
12 performance of these schools be evaluated to determine whether
13 additional public charter schools should be allowed;

14 (iv) Require that public charter schools be free and open to all
15 students just like traditional public schools are, and that students be
16 selected by lottery to ensure fairness if more students apply than a
17 school can accommodate;

18 (v) Require that public charter schools be subject to the same
19 academic standards as existing public schools;

20 (vi) Require public charter schools to be authorized and overseen
21 by a state charter school commission, or by a local school board;

22 (vii) Require that public charter schools receive funding based on
23 student enrollment just like existing public schools;

24 (viii) Allow public charter schools to be free from many
25 regulations so that they have more flexibility to set curriculum and
26 budgets, hire and fire teachers and staff, and offer more customized
27 learning experiences for students; and

28 (ix) Give priority to opening public charter schools that serve at-
29 risk student populations or students from low-performing public
30 schools.

31 (2) Therefore, the people enact this initiative measure to
32 authorize a limited number of public charter schools in the state of
33 Washington, to be operated by qualified nonprofit organizations with
34 strong accountability and oversight, and to evaluate the performance of
35 these schools and potential benefits of new models for improving
36 academic achievement for all students.

1 **PART II**

2 **AUTHORIZING CHARTER SCHOOLS**

3 NEW SECTION. **Sec. 201.** DEFINITIONS--CHARTER SCHOOLS. The
4 definitions in this section apply throughout this chapter unless the
5 context clearly requires otherwise.

6 (1) "Applicant" means a nonprofit corporation that has submitted an
7 application to an authorizer. The nonprofit corporation must be either
8 a public benefit nonprofit corporation as defined in RCW 24.03.490, or
9 a nonprofit corporation as defined in RCW 24.03.005 that has applied
10 for tax exempt status under section 501(c)(3) of the internal revenue
11 code of 1986 (26 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may
12 not be a sectarian or religious organization and must meet all of the
13 requirements for a public benefit nonprofit corporation before
14 receiving any funding under section 222 of this act.

15 (2) "At-risk student" means a student who has an academic or
16 economic disadvantage that requires assistance or special services to
17 succeed in educational programs. The term includes, but is not limited
18 to, students who do not meet minimum standards of academic proficiency,
19 students who are at risk of dropping out of high school, students in
20 chronically low-performing schools, students with higher than average
21 disciplinary sanctions, students with lower participation rates in
22 advanced or gifted programs, students who are limited in English
23 proficiency, students who are members of economically disadvantaged
24 families, and students who are identified as having special educational
25 needs.

26 (3) "Authorizer" means an entity approved under section 209 of this
27 act to review, approve, or reject charter school applications; enter
28 into, renew, or revoke charter contracts with applicants; and oversee
29 the charter schools the entity has authorized.

30 (4) "Charter contract" means a fixed term, renewable contract
31 between a charter school and an authorizer that outlines the roles,
32 powers, responsibilities, and performance expectations for each party
33 to the contract.

34 (5) "Charter school" or "public charter school" means a public
35 school governed by a charter school board and operated according to the
36 terms of a charter contract executed under this chapter and includes a
37 new charter school and a conversion charter school.

1 (6) "Charter school board" means the board of directors appointed
2 or selected under the terms of a charter application to manage and
3 operate the charter school.

4 (7) "Commission" means the Washington charter school commission
5 established in section 208 of this act.

6 (8) "Conversion charter school" means a charter school created by
7 converting an existing noncharter public school in its entirety to a
8 charter school under this chapter.

9 (9) "New charter school" means any charter school established under
10 this chapter that is not a conversion charter school.

11 (10) "Parent" means a parent, guardian, or other person or entity
12 having legal custody of a child.

13 (11) "Student" means any child eligible under RCW 28A.225.160 to
14 attend a public school in the state.

15 NEW SECTION. **Sec. 202.** LEGAL STATUS. A charter school
16 established under this chapter:

17 (1) Is a public, common school open to all children free of charge;

18 (2) Is a public, common school offering any program or course of
19 study that a noncharter public school may offer, including one or more
20 of grades kindergarten through twelve;

21 (3) Is governed by a charter school board according to the terms of
22 a renewable, five-year charter contract executed under section 216 of
23 this act;

24 (4) Is a public school to which parents choose to send their
25 children;

26 (5) Functions as a local education agency under applicable federal
27 laws and regulations and is responsible for meeting the requirements of
28 local education agencies and public schools under those federal laws
29 and regulations, including but not limited to compliance with the
30 individuals with disabilities education improvement act (20 U.S.C. Sec.
31 1401 et seq.), the federal educational rights and privacy act (20
32 U.S.C. Sec. 1232g), and the elementary and secondary education act (20
33 U.S.C. Sec. 6301 et seq.).

34 NEW SECTION. **Sec. 203.** CHARTER SCHOOL BOARDS--POWERS. (1) To
35 carry out its duty to manage and operate the charter school and carry
36 out the terms of its charter contract, a charter school board may:

1 (a) Hire, manage, and discharge any charter school employee in
2 accordance with the terms of this chapter and that school's charter
3 contract;

4 (b) Receive and disburse funds for the purposes of the charter
5 school;

6 (c) Enter into contracts with any school district, educational
7 service district, or other public or private entity for the provision
8 of real property, equipment, goods, supplies, and services, including
9 educational instructional services and including for the management and
10 operation of the charter school to the same extent as other noncharter
11 public schools, as long as the charter school board maintains oversight
12 authority over the charter school. Contracts for management operation
13 of the charter school may only be with nonprofit organizations;

14 (d) Rent, lease, purchase, or own real property. All charter
15 contracts and contracts with other entities must include provisions
16 regarding the disposition of the property if the charter school fails
17 to open as planned or closes, or if the charter contract is revoked or
18 not renewed;

19 (e) Issue secured and unsecured debt, including pledging,
20 assigning, or encumbering its assets to be used as collateral for loans
21 or extensions of credit to manage cash flow, improve operations, or
22 finance the acquisition of real property or equipment: PROVIDED, That
23 the public charter school may not pledge, assign, or encumber any
24 public funds received or to be received pursuant to section 222 of this
25 act. The debt is not a general, special, or moral obligation of the
26 state, the charter school authorizer, the school district in which the
27 charter school is located, or any other political subdivision or agency
28 of the state. Neither the full faith and credit nor the taxing power
29 of the state or any political subdivision or agency of the state may be
30 pledged for the payment of the debt;

31 (f) Solicit, accept, and administer for the benefit of the charter
32 school and its students, gifts, grants, and donations from individuals
33 or public or private entities, excluding from sectarian or religious
34 organizations. Charter schools may not accept any gifts or donations
35 the conditions of which violate this chapter or other state laws; and

36 (g) Issue diplomas to students who meet state high school
37 graduation requirements established under RCW 28A.230.090. A charter
38 school board may establish additional graduation requirements.

1 (2) A charter school board may not levy taxes or issue tax-backed
2 bonds. A charter school board may not acquire property by eminent
3 domain.

4 NEW SECTION. **Sec. 204.** CHARTER SCHOOLS--APPLICABILITY OF STATE
5 LAWS. (1) A charter school must operate according to the terms of its
6 charter contract and the provisions of this chapter.

7 (2) All charter schools must:

8 (a) Comply with local, state, and federal health, safety, parents'
9 rights, civil rights, and nondiscrimination laws applicable to school
10 districts and to the same extent as school districts, including but not
11 limited to chapter 28A.642 RCW (discrimination prohibition) and chapter
12 28A.640 RCW (sexual equality);

13 (b) Provide basic education, as provided in RCW 28A.150.210,
14 including instruction in the essential academic learning requirements
15 and participate in the statewide student assessment system as developed
16 under RCW 28A.655.070;

17 (c) Employ certificated instructional staff as required in RCW
18 28A.410.025: PROVIDED, That charter schools may hire noncertificated
19 instructional staff of unusual competence and in exceptional cases as
20 specified in RCW 28A.150.203(7);

21 (d) Comply with the employee record check requirements in RCW
22 28A.400.303;

23 (e) Adhere to generally accepted accounting principles and be
24 subject to financial examinations and audits as determined by the state
25 auditor, including annual audits for legal and fiscal compliance;

26 (f) Comply with the annual performance report under RCW
27 28A.655.110;

28 (g) Be subject to the performance improvement goals adopted by the
29 state board of education under RCW 28A.305.130;

30 (h) Comply with the open public meetings act in chapter 42.30 RCW
31 and public records requirements in chapter 42.56 RCW; and

32 (i) Be subject to and comply with legislation enacted after the
33 effective date of this section governing the operation and management
34 of charter schools.

35 (3) Public charter schools must comply with all state statutes and
36 rules made applicable to the charter school in the school's charter
37 contract and are subject to the specific state statutes and rules

1 identified in subsection (2) of this section. Charter schools are not
2 subject to and are exempt from all other state statutes and rules
3 applicable to school districts and school district boards of directors,
4 for the purpose of allowing flexibility to innovate in areas such as
5 scheduling, personnel, funding, and educational programs in order to
6 improve student outcomes and academic achievement. Charter schools are
7 exempt from all school district policies except policies made
8 applicable in the school's charter contract.

9 (4) No charter school may engage in any sectarian practices in its
10 educational program, admissions or employment policies, or operations.

11 (5) Charter schools are subject to the supervision of the
12 superintendent of public instruction and the state board of education,
13 including accountability measures, to the same extent as other public
14 schools, except as otherwise provided in chapter . . ., Laws of 2013
15 (this act).

16 NEW SECTION. **Sec. 205.** ADMISSION AND ENROLLMENT OF STUDENTS. (1)

17 A charter school may not limit admission on any basis other than age
18 group, grade level, or capacity and must enroll all students who apply
19 within these bases. A charter school is open to any student regardless
20 of his or her location of residence.

21 (2) A charter school may not charge tuition, but may charge fees
22 for participation in optional extracurricular events and activities in
23 the same manner and to the same extent as do other public schools.

24 (3) A conversion charter school must provide sufficient capacity to
25 enroll all students who wish to remain enrolled in the school after its
26 conversion to a charter school, and may not displace students enrolled
27 before the chartering process.

28 (4) If capacity is insufficient to enroll all students who apply to
29 a charter school, the charter school must select students through a
30 lottery to ensure fairness. However, a charter school must give an
31 enrollment preference to siblings of already enrolled students.

32 (5) The capacity of a charter school must be determined annually by
33 the charter school board in consultation with the charter authorizer
34 and with consideration of the charter school's ability to facilitate
35 the academic success of its students, achieve the objectives specified
36 in the charter contract, and assure that its student enrollment does

1 not exceed the capacity of its facility. An authorizer may not
2 restrict the number of students a charter school may enroll.

3 (6) Nothing in this section prevents formation of a charter school
4 whose mission is to offer a specialized learning environment and
5 services for particular groups of students, such as at-risk students,
6 students with disabilities, or students who pose such severe
7 disciplinary problems that they warrant a specific educational program.
8 Nothing in this section prevents formation of a charter school
9 organized around a special emphasis, theme, or concept as stated in the
10 school's application and charter contract.

11 NEW SECTION. **Sec. 206.** CHARTER SCHOOL STUDENTS. (1) School
12 districts must provide information to parents and the general public
13 about charter schools located within the district as an enrollment
14 option for students.

15 (2) If a student who was previously enrolled in a charter school
16 enrolls in another public school in the state, the student's new school
17 must accept credits earned by the student in the charter school in the
18 same manner and according to the same criteria that credits are
19 accepted from other public schools.

20 (3) A charter school is eligible for state or district-sponsored
21 interscholastic programs, awards, scholarships, or competitions to the
22 same extent as other public schools.

23 NEW SECTION. **Sec. 207.** AUTHORIZERS. The following entities are
24 eligible to be authorizers of charter schools:

25 (1) The Washington charter school commission established under
26 section 208 of this act, for charter schools located anywhere in the
27 state; and

28 (2) School district boards of directors that have been approved by
29 the state board of education under section 209 of this act before
30 authorizing a charter school, for charter schools located within the
31 school district's own boundaries.

32 NEW SECTION. **Sec. 208.** WASHINGTON CHARTER SCHOOL COMMISSION. (1)
33 The Washington charter school commission is established as an
34 independent state agency whose mission is to authorize high quality
35 public charter schools throughout the state, particularly schools

1 designed to expand opportunities for at-risk students, and to ensure
2 the highest standards of accountability and oversight for these
3 schools. The commission shall, through its management, supervision,
4 and enforcement of the charter contracts, administer the portion of the
5 public common school system consisting of the charter schools it
6 authorizes as provided in this chapter, in the same manner as a school
7 district board of directors, through its management, supervision, and
8 enforcement of the charter contracts, and pursuant to applicable law,
9 administers the charter schools it authorizes.

10 (2) The commission shall consist of nine members, no more than five
11 of whom shall be members of the same political party. Three members
12 shall be appointed by the governor; three members shall be appointed by
13 the president of the senate; and three members shall be appointed by
14 the speaker of the house of representatives. The appointing
15 authorities shall assure diversity among commission members, including
16 representation from various geographic areas of the state and shall
17 assure that at least one member is a parent of a Washington public
18 school student.

19 (3) Members appointed to the commission shall collectively possess
20 strong experience and expertise in public and nonprofit governance;
21 management and finance; public school leadership, assessment,
22 curriculum, and instruction; and public education law. All members
23 shall have demonstrated an understanding of and commitment to charter
24 schooling as a strategy for strengthening public education.

25 (4) Members shall be appointed to four-year, staggered terms, with
26 initial appointments from each of the appointing authorities consisting
27 of one member appointed to a one-year term, one member appointed to a
28 two-year term, and one member appointed to a three-year term, all of
29 whom thereafter may be reappointed for a four-year term. No member may
30 serve more than two consecutive terms. Initial appointments must be
31 made no later than ninety days after the effective date of this
32 section.

33 (5) Whenever a vacancy on the commission exists, the original
34 appointing authority must appoint a member for the remaining portion of
35 the term within no more than thirty days.

36 (6) Commission members shall serve without compensation but may be
37 reimbursed for travel expenses as authorized in RCW 43.03.050 and
38 43.03.060.

1 (7) Operational and staff support for the commission shall be
2 provided by the office of the governor until the commission has
3 sufficient resources to hire or contract for separate staff support,
4 who shall reside within the office of the governor for administrative
5 purposes only.

6 (8) Sections 209 and 212 of this act do not apply to the
7 commission.

8 NEW SECTION. **Sec. 209.** AUTHORIZERS--APPROVAL. (1) The state
9 board of education shall establish an annual application and approval
10 process and timelines for entities seeking approval to be charter
11 school authorizers. The initial process and timelines must be
12 established no later than ninety days after the effective date of this
13 section.

14 (2) At a minimum, each applicant must submit to the state board:

15 (a) The applicant's strategic vision for chartering;

16 (b) A plan to support the vision presented, including explanation
17 and evidence of the applicant's budget and personnel capacity and
18 commitment to execute the responsibilities of quality charter
19 authorizing;

20 (c) A draft or preliminary outline of the request for proposals
21 that the applicant would, if approved as an authorizer, issue to
22 solicit charter school applicants;

23 (d) A draft of the performance framework that the applicant would,
24 if approved as an authorizer, use to guide the establishment of a
25 charter contract and for ongoing oversight and evaluation of charter
26 schools;

27 (e) A draft of the applicant's proposed renewal, revocation, and
28 nonrenewal processes, consistent with sections 219 and 220 of this act;

29 (f) A statement of assurance that the applicant seeks to serve as
30 an authorizer in fulfillment of the expectations, spirit, and intent of
31 this chapter, and that if approved as an authorizer, the applicant will
32 fully participate in any authorizer training provided or required by
33 the state; and

34 (g) A statement of assurance that the applicant will provide public
35 accountability and transparency in all matters concerning charter
36 authorizing practices, decisions, and expenditures.

1 (3) The state board of education shall consider the merits of each
2 application and make its decision within the timelines established by
3 the board.

4 (4) Within thirty days of making a decision to approve an
5 application under this section, the state board of education must
6 execute a renewable authorizing contract with the entity. The initial
7 term of an authorizing contract shall be six years. The authorizing
8 contract must specify each approved entity's agreement to serve as an
9 authorizer in accordance with the expectations of this chapter, and may
10 specify additional performance terms based on the applicant's proposal
11 and plan for chartering. No approved entity may commence charter
12 authorizing without an authorizing contract in effect.

13 NEW SECTION. **Sec. 210.** AUTHORIZERS--POWERS AND DUTIES. (1)

14 Authorizers are responsible for:

- 15 (a) Soliciting and evaluating charter applications;
- 16 (b) Approving quality charter applications that meet identified
17 educational needs and promote a diversity of educational choices;
- 18 (c) Denying weak or inadequate charter applications;
- 19 (d) Negotiating and executing sound charter contracts with each
20 authorized charter school;
- 21 (e) Monitoring, in accordance with charter contract terms, the
22 performance and legal compliance of charter schools including, without
23 limitation, education and academic performance goals and student
24 achievement; and
- 25 (f) Determining whether each charter contract merits renewal,
26 nonrenewal, or revocation.

27 (2) An authorizer may delegate its responsibilities under this
28 section to employees or contractors.

29 (3) All authorizers must develop and follow chartering policies and
30 practices that are consistent with the principles and standards for
31 quality charter authorizing developed by the national association of
32 charter school authorizers in at least the following areas:

- 33 (a) Organizational capacity and infrastructure;
- 34 (b) Soliciting and evaluating charter applications;
- 35 (c) Performance contracting;
- 36 (d) Ongoing charter school oversight and evaluation; and
- 37 (e) Charter renewal decision making.

1 (4) Each authorizer must submit an annual report to the state board
2 of education, according to a timeline, content, and format specified by
3 the board, which includes:

4 (a) The authorizer's strategic vision for chartering and progress
5 toward achieving that vision;

6 (b) The academic and financial performance of all operating charter
7 schools overseen by the authorizer, including the progress of the
8 charter schools based on the authorizer's performance framework;

9 (c) The status of the authorizer's charter school portfolio,
10 identifying all charter schools in each of the following categories:
11 Approved but not yet open, operating, renewed, transferred, revoked,
12 not renewed, voluntarily closed, or never opened;

13 (d) The authorizer's operating costs and expenses detailed in
14 annual audited financial statements that conform with generally
15 accepted accounting principles; and

16 (e) The services purchased from the authorizer by the charter
17 schools under its jurisdiction under section 211 of this act, including
18 an itemized accounting of the actual costs of these services.

19 (5) Neither an authorizer, individuals who comprise the membership
20 of an authorizer in their official capacity, nor the employees of an
21 authorizer are liable for acts or omissions of a charter school they
22 authorize.

23 (6) No employee, trustee, agent, or representative of an authorizer
24 may simultaneously serve as an employee, trustee, agent,
25 representative, vendor, or contractor of a charter school under the
26 jurisdiction of that authorizer.

27 NEW SECTION. **Sec. 211.** AUTHORIZERS--FUNDING. (1) The state board
28 of education shall establish a statewide formula for an authorizer
29 oversight fee, which shall be calculated as a percentage of the state
30 operating funding allocated under section 222 of this act to each
31 charter school under the jurisdiction of an authorizer, but may not
32 exceed four percent of each charter school's annual funding. The
33 office of the superintendent of public instruction shall deduct the
34 oversight fee from each charter school's allocation under section 222
35 of this act and transmit the fee to the appropriate authorizer.

36 (2) The state board of education may establish a sliding scale for
37 the authorizer oversight fee, with the funding percentage decreasing

1 after the authorizer has achieved a certain threshold, such as after a
2 certain number of years of authorizing or after a certain number of
3 charter schools have been authorized.

4 (3) An authorizer must use its oversight fee exclusively for the
5 purpose of fulfilling its duties under section 210 of this act.

6 (4) An authorizer may provide contracted, fee-based services to
7 charter schools under its jurisdiction that are in addition to the
8 oversight duties under section 210 of this act. An authorizer may not
9 charge more than market rates for the contracted services provided. A
10 charter school may not be required to purchase contracted services from
11 an authorizer. Fees collected by the authorizer under this subsection
12 must be separately accounted for and reported annually to the state
13 board of education.

14 NEW SECTION. **Sec. 212.** AUTHORIZERS--OVERSIGHT. (1) The state
15 board of education is responsible for overseeing the performance and
16 effectiveness of all authorizers approved under section 209 of this
17 act.

18 (2) Persistently unsatisfactory performance of an authorizer's
19 portfolio of charter schools, a pattern of well-founded complaints
20 about the authorizer or its charter schools, or other objective
21 circumstances may trigger a special review by the state board of
22 education.

23 (3) In reviewing or evaluating the performance of authorizers, the
24 board must apply nationally recognized principles and standards for
25 quality charter authorizing. Evidence of material or persistent
26 failure by an authorizer to carry out its duties in accordance with the
27 principles and standards constitutes grounds for revocation of the
28 authorizing contract by the state board, as provided under this
29 section.

30 (4) If at any time the state board of education finds that an
31 authorizer is not in compliance with a charter contract, its
32 authorizing contract, or the authorizer duties under section 210 of
33 this act, the board must notify the authorizer in writing of the
34 identified problems, and the authorizer shall have reasonable
35 opportunity to respond and remedy the problems.

36 (5) If an authorizer persists after due notice from the state board
37 of education in violating a material provision of a charter contract or

1 its authorizing contract, or fails to remedy other identified
2 authorizing problems, the state board of education shall notify the
3 authorizer, within a reasonable amount of time under the circumstances,
4 that it intends to revoke the authorizer's chartering authority unless
5 the authorizer demonstrates a timely and satisfactory remedy for the
6 violation or deficiencies.

7 (6) In the event of revocation of any authorizer's chartering
8 authority, the state board of education shall manage the timely and
9 orderly transfer of each charter contract held by that authorizer to
10 another authorizer in the state, with the mutual agreement of each
11 affected charter school and proposed new authorizer. The new
12 authorizer shall assume the existing charter contract for the remainder
13 of the charter term.

14 (7) The state board of education must establish timelines and a
15 process for taking actions under this section in response to
16 performance deficiencies by an authorizer.

17 NEW SECTION. **Sec. 213.** CHARTER APPLICATIONS--CONTENT. (1) (a)
18 Each authorizer must annually issue and broadly publicize a request for
19 proposals for charter school applicants by the date established by the
20 state board of education under section 214 of this act.

21 (b) Each authorizer's request for proposals must:

22 (i) Present the authorizer's strategic vision for chartering,
23 including a clear statement of any preferences the authorizer wishes to
24 grant to applications that employ proven methods for educating at-risk
25 students or students with special needs;

26 (ii) Include or otherwise direct applicants to the performance
27 framework that the authorizer has developed for charter school
28 oversight and evaluation in accordance with section 217 of this act;

29 (iii) Provide the criteria that will guide the authorizer's
30 decision to approve or deny a charter application; and

31 (iv) State clear, appropriately detailed questions as well as
32 guidelines concerning the format and content essential for applicants
33 to demonstrate the capacities necessary to establish and operate a
34 successful charter school.

35 (2) A charter school application must provide or describe
36 thoroughly all of the following elements of the proposed school plan:

37 (a) An executive summary;

- 1 (b) The mission and vision of the proposed charter school,
2 including identification of the targeted student population and the
3 community the school hopes to serve;
- 4 (c) The location or geographic area proposed for the school and the
5 school district within which the school will be located;
- 6 (d) The grades to be served each year for the full term of the
7 charter contract;
- 8 (e) Minimum, planned, and maximum enrollment per grade per year for
9 the term of the charter contract;
- 10 (f) Evidence of need and parent and community support for the
11 proposed charter school;
- 12 (g) Background information on the proposed founding governing board
13 members and, if identified, the proposed school leadership and
14 management team;
- 15 (h) The school's proposed calendar and sample daily schedule;
- 16 (i) A description of the academic program aligned with state
17 standards;
- 18 (j) A description of the school's proposed instructional design,
19 including the type of learning environment; class size and structure;
20 curriculum overview; and teaching methods;
- 21 (k) Evidence that the educational program is based on proven
22 methods;
- 23 (l) The school's plan for using internal and external assessments
24 to measure and report student progress on the performance framework
25 developed by the authorizer in accordance with section 217 of this act;
- 26 (m) The school's plans for identifying, successfully serving, and
27 complying with applicable laws and regulations regarding students with
28 disabilities, students who are limited English proficient, students who
29 are struggling academically, and highly capable students;
- 30 (n) A description of cocurricular or extracurricular programs and
31 how they will be funded and delivered;
- 32 (o) Plans and timelines for student recruitment and enrollment,
33 including targeted plans for recruiting at-risk students and including
34 lottery procedures;
- 35 (p) The school's student discipline policies, including for special
36 education students;
- 37 (q) An organization chart that clearly presents the school's
38 organizational structure, including lines of authority and reporting

1 between the governing board, staff, any related bodies such as advisory
2 bodies or parent and teacher councils, and any external organizations
3 that will play a role in managing the school;

4 (r) A clear description of the roles and responsibilities for the
5 governing board, the school's leadership and management team, and any
6 other entities shown in the organization chart;

7 (s) A staffing plan for the school's first year and for the term of
8 the charter;

9 (t) Plans for recruiting and developing school leadership and
10 staff;

11 (u) The school's leadership and teacher employment policies,
12 including performance evaluation plans;

13 (v) Proposed governing bylaws;

14 (w) An explanation of proposed partnership agreement, if any,
15 between a charter school and its school district focused on facilities,
16 budgets, taking best practices to scale, and other items;

17 (x) Explanations of any other partnerships or contractual
18 relationships central to the school's operations or mission;

19 (y) Plans for providing transportation, food service, and all other
20 significant operational or ancillary services;

21 (z) Opportunities and expectations for parent involvement;

22 (aa) A detailed school start-up plan, identifying tasks, timelines,
23 and responsible individuals;

24 (bb) A description of the school's financial plan and policies,
25 including financial controls and audit requirements;

26 (cc) A description of the insurance coverage the school will
27 obtain;

28 (dd) Start-up and five-year cash flow projections and budgets with
29 clearly stated assumptions;

30 (ee) Evidence of anticipated fundraising contributions, if claimed
31 in the application; and

32 (ff) A sound facilities plan, including backup or contingency plans
33 if appropriate.

34 (3) In the case of an application to establish a conversion charter
35 school, the applicant must also demonstrate support for the proposed
36 conversion by a petition signed by a majority of teachers assigned to
37 the school or a petition signed by a majority of parents of students in
38 the school.

1 (4) In the case of an application where the proposed charter school
2 intends to contract with a nonprofit education service provider for
3 substantial educational services, management services, or both, the
4 applicant must:

5 (a) Provide evidence of the nonprofit education service provider's
6 success in serving student populations similar to the targeted
7 population, including demonstrated academic achievement as well as
8 successful management of nonacademic school functions if applicable;

9 (b) Provide a term sheet setting forth the proposed duration of the
10 service contract; roles and responsibilities of the governing board,
11 the school staff, and the service provider; scope of services and
12 resources to be provided by the service provider; performance
13 evaluation measures and timelines; compensation structure, including
14 clear identification of all fees to be paid to the service provider;
15 methods of contract oversight and enforcement; investment disclosure;
16 and conditions for renewal and termination of the contract; and

17 (c) Disclose and explain any existing or potential conflicts of
18 interest between the charter school board and proposed service provider
19 or any affiliated business entities.

20 (5) In the case of an application from an applicant that operates
21 one or more schools in any state or nation, the applicant must provide
22 evidence of past performance, including evidence of the applicant's
23 success in serving at-risk students, and capacity for growth.

24 (6) Applicants may submit a proposal for a particular public
25 charter school to no more than one authorizer at a time.

26 NEW SECTION. **Sec. 214.** CHARTER APPLICATIONS--DECISION PROCESS.

27 (1) The state board of education must establish an annual statewide
28 timeline for charter application submission and approval or denial,
29 which must be followed by all authorizers.

30 (2) In reviewing and evaluating charter applications, authorizers
31 shall employ procedures, practices, and criteria consistent with
32 nationally recognized principles and standards for quality charter
33 authorizing. Authorizers shall give preference to applications for
34 charter schools that are designed to enroll and serve at-risk student
35 populations: PROVIDED, That nothing in this chapter may be construed
36 as intended to limit the establishment of charter schools to those that
37 serve a substantial portion of at-risk students or to in any manner

1 restrict, limit, or discourage the establishment of charter schools
2 that enroll and serve other pupil populations under a nonexclusive,
3 nondiscriminatory admissions policy. The application review process
4 must include thorough evaluation of each application, an in-person
5 interview with the applicant group, and an opportunity in a public
6 forum including, without limitation, parents, community members, local
7 residents, and school district board members and staff, to learn about
8 and provide input on each application.

9 (3) In deciding whether to approve an application, authorizers
10 must:

11 (a) Grant charters only to applicants that have demonstrated
12 competence in each element of the authorizer's published approval
13 criteria and are likely to open and operate a successful public charter
14 school;

15 (b) Base decisions on documented evidence collected through the
16 application review process;

17 (c) Follow charter-granting policies and practices that are
18 transparent and based on merit; and

19 (d) Avoid any conflicts of interest whether real or apparent.

20 (4) An approval decision may include, if appropriate, reasonable
21 conditions that the charter applicant must meet before a charter
22 contract may be executed.

23 (5) For any denial of an application, the authorizer shall clearly
24 state in writing its reasons for denial. A denied applicant may
25 subsequently reapply to that authorizer or apply to another authorizer
26 in the state.

27 NEW SECTION. **Sec. 215.** NUMBER OF CHARTER SCHOOLS. (1) A maximum
28 of forty public charter schools may be established under this chapter,
29 over a five-year period. No more than eight charter schools may be
30 established in any single year during the five-year period, except that
31 if in any single year fewer than eight charter schools are established,
32 then additional charter schools equal in number to the difference
33 between the number established in that year and eight may be
34 established in subsequent years during the five-year period.

35 (2) To ensure compliance with the limits for establishing new
36 charter schools, certification from the state board of education must
37 be obtained before final authorization of a charter school. Within ten

1 days of taking action to approve or deny an application under section
2 214 of this act, an authorizer must submit a report of the action to
3 the applicant and to the state board of education, which must include
4 a copy of the authorizer's resolution setting forth the action taken,
5 the reasons for the decision, and assurances of compliance with the
6 procedural requirements and application elements under sections 213 and
7 214 of this act. The authorizer must also indicate whether the charter
8 school is designed to enroll and serve at-risk student populations.
9 The state board of education must establish, for each year in which
10 charter schools may be authorized as part of the timeline to be
11 established pursuant to section 214 of this act, the last date by which
12 the authorizer must submit the report. The state board of education
13 must send notice of the date to each authorizer no later than six
14 months before the date.

15 (3) Upon the receipt of notice from an authorizer that a charter
16 school has been approved, the state board of education shall certify
17 whether the approval is in compliance with the limits on the maximum
18 number of charters allowed under subsection (1) of this section. If
19 the board receives simultaneous notification of approved charters that
20 exceed the annual allowable limits in subsection (1) of this section,
21 the board must select approved charters for implementation through a
22 lottery process, and must assign implementation dates accordingly.

23 (4) The state board of education must notify authorizers when the
24 maximum allowable number of charter schools has been reached.

25 NEW SECTION. **Sec. 216.** CHARTER CONTRACTS. (1) The purposes of
26 the charter application submitted under section 213 of this act are to
27 present the proposed charter school's academic and operational vision
28 and plans and to demonstrate and provide the authorizer a clear basis
29 for the applicant's capacities to execute the proposed vision and
30 plans. An approved charter application does not serve as the school's
31 charter contract.

32 (2) Within ninety days of approval of a charter application, the
33 authorizer and the governing board of the approved charter school must
34 execute a charter contract by which, fundamentally, the public charter
35 school agrees to provide educational services that at a minimum meet
36 basic education standards in return for an allocation of public funds
37 to be used for such purpose all as set forth in this and other

1 applicable statutes and in the charter contract. The charter contract
2 must clearly set forth the academic and operational performance
3 expectations and measures by which the charter school will be judged
4 and the administrative relationship between the authorizer and charter
5 school, including each party's rights and duties. The performance
6 expectations and measures set forth in the charter contract must
7 include but need not be limited to applicable federal and state
8 accountability requirements. The performance provisions may be refined
9 or amended by mutual agreement after the charter school is operating
10 and has collected baseline achievement data for its enrolled students.

11 (3) The charter contract must be signed by the president of the
12 school district board of directors if the school district board of
13 directors is the authorizer or the chair of the commission if the
14 commission is the authorizer and by the president of the charter school
15 board. Within ten days of executing a charter contract, the authorizer
16 must submit to the state board of education written notification of the
17 charter contract execution, including a copy of the executed charter
18 contract and any attachments.

19 (4) A charter contract may govern one or more charter schools to
20 the extent approved by the authorizer. A single charter school board
21 may hold one or more charter contracts. However, each charter school
22 that is part of a charter contract must be separate and distinct from
23 any others and, for purposes of calculating the maximum number of
24 charter schools that may be established under this chapter, each
25 charter school must be considered a single charter school regardless of
26 how many charter schools are governed under a particular charter
27 contract.

28 (5) An initial charter contract must be granted for a term of five
29 operating years. The contract term must commence on the charter
30 school's first day of operation. An approved charter school may delay
31 its opening for one school year in order to plan and prepare for the
32 school's opening. If the school requires an opening delay of more than
33 one school year, the school must request an extension from its
34 authorizer. The authorizer may grant or deny the extension depending
35 on the school's circumstances.

36 (6) Authorizers may establish reasonable preopening requirements or
37 conditions to monitor the start-up progress of newly approved charter

1 schools and ensure that they are prepared to open smoothly on the date
2 agreed, and to ensure that each school meets all building, health,
3 safety, insurance, and other legal requirements for school opening.

4 (7) No charter school may commence operations without a charter
5 contract executed in accordance with this section.

6 NEW SECTION. **Sec. 217.** CHARTER CONTRACTS--PERFORMANCE FRAMEWORK.

7 (1) The performance provisions within a charter contract must be based
8 on a performance framework that clearly sets forth the academic and
9 operational performance indicators, measures, and metrics that will
10 guide an authorizer's evaluations of each charter school.

11 (2) At a minimum, the performance framework must include
12 indicators, measures, and metrics for:

13 (a) Student academic proficiency;

14 (b) Student academic growth;

15 (c) Achievement gaps in both proficiency and growth between major
16 student subgroups;

17 (d) Attendance;

18 (e) Recurrent enrollment from year to year;

19 (f) Graduation rates and postsecondary readiness, for high schools;

20 (g) Financial performance and sustainability; and

21 (h) Board performance and stewardship, including compliance with
22 all applicable laws, rules, and terms of the charter contract.

23 (3) Annual performance targets must be set by each charter school
24 in conjunction with its authorizer and must be designed to help each
25 school meet applicable federal, state, and authorizer expectations.

26 (4) The authorizer and charter school may also include additional
27 rigorous, valid, and reliable indicators in the performance framework
28 to augment external evaluations of the charter school's performance.

29 (5) The performance framework must require the disaggregation of
30 all student performance data by major student subgroups, including
31 gender, race and ethnicity, poverty status, special education status,
32 English language learner status, and highly capable status.

33 (6) Multiple schools operating under a single charter contract or
34 overseen by a single charter school board must report their performance
35 as separate schools, and each school shall be held independently
36 accountable for its performance.

1 NEW SECTION. **Sec. 218.** CHARTER CONTRACTS--OVERSIGHT. (1) Each
2 authorizer must continually monitor the performance and legal
3 compliance of the charter schools it oversees, including collecting and
4 analyzing data to support ongoing evaluation according to the
5 performance framework in the charter contract.

6 (2) An authorizer may conduct or require oversight activities that
7 enable the authorizer to fulfill its responsibilities under this
8 chapter, including conducting appropriate inquiries and investigations,
9 so long as those activities are consistent with the intent of this
10 chapter, adhere to the terms of the charter contract, and do not unduly
11 inhibit the autonomy granted to charter schools.

12 (3) In the event that a charter school's performance or legal
13 compliance appears unsatisfactory, the authorizer must promptly notify
14 the school of the perceived problem and provide reasonable opportunity
15 for the school to remedy the problem, unless the problem warrants
16 revocation in which case the revocation procedures under section 220 of
17 this act apply.

18 (4) An authorizer may take appropriate corrective actions or
19 exercise sanctions short of revocation in response to apparent
20 deficiencies in charter school performance or legal compliance. Such
21 actions or sanctions may include, if warranted, requiring a school to
22 develop and execute a corrective action plan within a specified time
23 frame.

24 NEW SECTION. **Sec. 219.** CHARTER CONTRACTS--RENEWAL. (1) A charter
25 contract may be renewed by the authorizer, at the request of the
26 charter school, for successive five-year terms, although the authorizer
27 may vary the term based on the performance, demonstrated capacities,
28 and particular circumstances of a charter school and may grant renewal
29 with specific conditions for necessary improvements to a charter
30 school.

31 (2) No later than six months before the expiration of a charter
32 contract, the authorizer must issue a performance report and charter
33 contract renewal application guidance to that charter school. The
34 performance report must summarize the charter school's performance
35 record to date based on the data required by the charter contract, and
36 must provide notice of any weaknesses or concerns perceived by the
37 authorizer concerning the charter school that may jeopardize its

1 position in seeking renewal if not timely rectified. The charter
2 school has thirty days to respond to the performance report and submit
3 any corrections or clarifications for the report.

4 (3) The renewal application guidance must, at a minimum, provide an
5 opportunity for the charter school to:

6 (a) Present additional evidence, beyond the data contained in the
7 performance report, supporting its case for charter contract renewal;

8 (b) Describe improvements undertaken or planned for the school; and

9 (c) Detail the school's plans for the next charter contract term.

10 (4) The renewal application guidance must include or refer
11 explicitly to the criteria that will guide the authorizer's renewal
12 decisions, which shall be based on the performance framework set forth
13 in the charter contract.

14 (5) In making charter renewal decisions, an authorizer must:

15 (a) Ground its decisions in evidence of the school's performance
16 over the term of the charter contract in accordance with the
17 performance framework set forth in the charter contract;

18 (b) Ensure that data used in making renewal decisions are available
19 to the school and the public; and

20 (c) Provide a public report summarizing the evidence basis for its
21 decision.

22 NEW SECTION. **Sec. 220.** CHARTER CONTRACTS--NONRENEWAL OR
23 REVOCATION. (1) A charter contract may be revoked at any time or not
24 renewed if the authorizer determines that the charter school did any of
25 the following or otherwise failed to comply with the provisions of this
26 chapter:

27 (a) Committed a material and substantial violation of any of the
28 terms, conditions, standards, or procedures required under this chapter
29 or the charter contract;

30 (b) Failed to meet or make sufficient progress toward the
31 performance expectations set forth in the charter contract;

32 (c) Failed to meet generally accepted standards of fiscal
33 management; or

34 (d) Substantially violated any material provision of law from which
35 the charter school is not exempt.

36 (2) A charter contract may not be renewed if, at the time of the
37 renewal application, the charter school's performance falls in the

1 bottom quartile of schools on the accountability index developed by the
2 state board of education under RCW 28A.657.110, unless the charter
3 school demonstrates exceptional circumstances that the authorizer finds
4 justifiable.

5 (3) Each authorizer must develop revocation and nonrenewal
6 processes that:

7 (a) Provide the charter school board with a timely notification of
8 the prospect of and reasons for revocation or nonrenewal;

9 (b) Allow the charter school board a reasonable amount of time in
10 which to prepare a response;

11 (c) Provide the charter school board with an opportunity to submit
12 documents and give testimony challenging the rationale for closure and
13 in support of the continuation of the school at a recorded public
14 proceeding held for that purpose;

15 (d) Allow the charter school board to be represented by counsel and
16 to call witnesses on its behalf; and

17 (e) After a reasonable period for deliberation, require a final
18 determination to be made and conveyed in writing to the charter school
19 board.

20 (4) If an authorizer revokes or does not renew a charter, the
21 authorizer must clearly state in a resolution the reasons for the
22 revocation or nonrenewal.

23 (5) Within ten days of taking action to renew, not renew, or revoke
24 a charter contract, an authorizer must submit a report of the action to
25 the applicant and to the state board of education, which must include
26 a copy of the authorizer's resolution setting forth the action taken,
27 the reasons for the decision, and assurances of compliance with the
28 procedural requirements established by the authorizer under this
29 section.

30 NEW SECTION. **Sec. 221.** CHARTER SCHOOL TERMINATION OR DISSOLUTION.

31 (1) Before making a decision to not renew or to revoke a charter
32 contract, authorizers must develop a charter school termination
33 protocol to ensure timely notification to parents, orderly transition
34 of students and student records to new schools, as necessary, and
35 proper disposition of public school funds, property, and assets. The
36 protocol must specify tasks, timelines, and responsible parties,

1 including delineating the respective duties of the charter school and
2 the authorizer.

3 (2) In the event that the nonprofit corporation applicant of a
4 charter school should dissolve for any reason including, without
5 limitation, because of the termination of the charter contract, the
6 public school funds of the charter school that have been provided
7 pursuant to section 222 of this act must be returned to the state or
8 local account from which the public funds originated. If the charter
9 school has comingled the funds, the funds must be returned in
10 proportion to the proportion of those funds received by the charter
11 school from the public accounts in the last year preceding the
12 dissolution. The dissolution of an applicant nonprofit corporation
13 shall otherwise proceed as provided by law.

14 (3) A charter contract may not be transferred from one authorizer
15 to another or from one charter school applicant to another before the
16 expiration of the charter contract term except by petition to the state
17 board of education by the charter school or its authorizer. The state
18 board of education must review such petitions on a case-by-case basis
19 and may grant transfer requests in response to special circumstances
20 and evidence that such a transfer would serve the best interests of the
21 charter school's students.

22 NEW SECTION. **Sec. 222.** FUNDING. (1) Charter schools must report
23 student enrollment in the same manner and based on the same definitions
24 of enrolled students and annual average full-time equivalent enrollment
25 as other public schools. Charter schools must comply with applicable
26 reporting requirements to receive state or federal funding that is
27 allocated based on student characteristics.

28 (2) According to the schedule established under RCW 28A.510.250,
29 the superintendent of public instruction shall allocate funding for a
30 charter school including general apportionment, special education,
31 categorical, and other nonbasic education moneys. Allocations must be
32 based on the statewide average staff mix ratio of all noncharter public
33 schools from the prior school year and the school's actual full-time
34 equivalent enrollment. Categorical funding must be allocated to a
35 charter school based on the same funding criteria used for noncharter
36 public schools and the funds must be expended as provided in the

1 charter contract. A charter school is eligible to apply for state
2 grants on the same basis as a school district.

3 (3) Allocations for pupil transportation must be calculated on a
4 per student basis based on the allocation for the previous school year
5 to the school district in which the charter school is located. A
6 charter school may enter into a contract with a school district or
7 other public or private entity to provide transportation for the
8 students of the school.

9 (4) Amounts payable to a charter school under this section in the
10 school's first year of operation must be based on the projections of
11 first-year student enrollment established in the charter contract. The
12 office of the superintendent of public instruction must reconcile the
13 amounts paid in the first year of operation to the amounts that would
14 have been paid based on actual student enrollment and make adjustments
15 to the charter school's allocations over the course of the second year
16 of operation.

17 (5) For charter schools authorized by a school district board of
18 directors, allocations to a charter school that are included in RCW
19 84.52.0531(3) (a) through (c) shall be included in the levy planning,
20 budgets, and funding distribution in the same manner as other public
21 schools in the district.

22 (6) Conversion charter schools are eligible for local levy moneys
23 approved by the voters before the conversion start-up date of the
24 school as determined by the authorizer, and the school district must
25 allocate levy moneys to a conversion charter school.

26 (7) New charter schools are not eligible for local levy moneys
27 approved by the voters before the start-up date of the school unless
28 the local school district is the authorizer.

29 (8) For levies submitted to voters after the start-up date of a
30 charter school authorized under this chapter, the charter school must
31 be included in levy planning, budgets, and funding distribution in the
32 same manner as other public schools in the district.

33 (9) Any moneys received by a charter school from any source and
34 remaining in the school's accounts at the end of any budget year shall
35 remain in the school's accounts for use by the school during subsequent
36 budget years.

1 NEW SECTION. **Sec. 223.** FACILITIES. (1) Charter schools are
2 eligible for state matching funds for common school construction.

3 (2) A charter school has a right of first refusal to purchase or
4 lease at or below fair market value a closed public school facility or
5 property or unused portions of a public school facility or property
6 located in a school district from which it draws its students if the
7 school district decides to sell or lease the public school facility or
8 property pursuant to RCW 28A.335.040 or 28A.335.120.

9 (3) A charter school may negotiate and contract with a school
10 district, the governing body of a public college or university, or any
11 other public or private entity for the use of a facility for a school
12 building at or below fair market rent.

13 (4) Public libraries, community service organizations, museums,
14 performing arts venues, theaters, and public or private colleges and
15 universities may provide space to charter schools within their
16 facilities under their preexisting zoning and land use designations.

17 (5) A conversion charter school as part of the consideration for
18 providing educational services under the charter contract may continue
19 to use its existing facility without paying rent to the school district
20 that owns the facility. The district remains responsible for major
21 repairs and safety upgrades that may be required for the continued use
22 of the facility as a public school. The charter school is responsible
23 for routine maintenance of the facility including, but not limited to,
24 cleaning, painting, gardening, and landscaping. The charter contract
25 of a conversion charter school using existing facilities that are owned
26 by its school district must include reasonable and customary terms
27 regarding the use of the existing facility that are binding upon the
28 school district.

29 NEW SECTION. **Sec. 224.** YEARS OF SERVICE. Years of service in a
30 charter school by certificated instructional staff shall be included in
31 the years of service calculation for purposes of the statewide salary
32 allocation schedule under RCW 28A.150.410. This section does not
33 require a charter school to pay a particular salary to its staff while
34 the staff is employed by the charter school.

35 NEW SECTION. **Sec. 225.** ANNUAL REPORTS. (1) By December 1st of
36 each year beginning in the first year after there have been charter

1 schools operating for a full school year, the state board of education,
2 in collaboration with the commission, must issue an annual report on
3 the state's charter schools for the preceding school year to the
4 governor, the legislature, and the public at-large.

5 (2) The annual report must be based on the reports submitted by
6 each authorizer as well as any additional relevant data compiled by the
7 board. The report must include a comparison of the performance of
8 charter school students with the performance of academically,
9 ethnically, and economically comparable groups of students in
10 noncharter public schools. In addition, the annual report must include
11 the state board of education's assessment of the successes, challenges,
12 and areas for improvement in meeting the purposes of this chapter,
13 including the board's assessment of the sufficiency of funding for
14 charter schools, the efficacy of the formula for authorizer funding,
15 and any suggested changes in state law or policy necessary to
16 strengthen the state's charter schools.

17 (3) Together with the issuance of the annual report following the
18 fifth year after there have been charter schools operating for a full
19 school year, the state board of education, in collaboration with the
20 commission, shall submit a recommendation regarding whether or not the
21 legislature should authorize the establishment of additional public
22 charter schools.

23 **PART III**
24 **GENERAL PROVISIONS**

25 **Sec. 301.** RCW 28A.150.010 and 1969 ex.s. c 223 s 28A.01.055 are
26 each amended to read as follows:

27 Public schools (~~shall~~) means the common schools as referred to in
28 Article IX of the state Constitution, including charter schools
29 established under chapter 28A.--- RCW (the new chapter created in
30 section 401 of this act), and those schools and institutions of
31 learning having a curriculum below the college or university level as
32 now or may be established by law and maintained at public expense.

33 **Sec. 302.** RCW 28A.315.005 and 1999 c 315 s 1 are each amended to
34 read as follows:

35 (1) Under the constitutional framework and the laws of the state of

1 Washington, the governance structure for the state's public common
2 school system is comprised of the following bodies: The legislature,
3 the governor, the superintendent of public instruction, the state board
4 of education, the Washington charter school commission, the educational
5 service district boards of directors, and local school district boards
6 of directors. The respective policy and administrative roles of each
7 body are determined by the state Constitution and statutes.

8 (2) Local school districts are political subdivisions of the state
9 and the organization of such districts, including the powers, duties,
10 and boundaries thereof, may be altered or abolished by laws of the
11 state of Washington.

12 NEW SECTION. Sec. 303. A new section is added to chapter 41.32
13 RCW to read as follows:

14 This section designates charter schools established under chapter
15 28A.-- RCW (the new chapter created in section 401 of this act) as
16 employers and charter school employees as members, and applies only if
17 the department of retirement systems receives determinations from the
18 internal revenue service and the United States department of labor that
19 participation does not jeopardize the status of these retirement
20 systems as governmental plans under the federal employees' retirement
21 income security act and the internal revenue code.

22 NEW SECTION. Sec. 304. A new section is added to chapter 41.35
23 RCW to read as follows:

24 This section designates charter schools established under chapter
25 28A.-- RCW (the new chapter created in section 401 of this act) as
26 employers and charter school employees as members, and applies only if
27 the department of retirement systems receives determinations from the
28 internal revenue service and the United States department of labor that
29 participation does not jeopardize the status of these retirement
30 systems as governmental plans under the federal employees' retirement
31 income security act and the internal revenue code.

32 NEW SECTION. Sec. 305. A new section is added to chapter 41.40
33 RCW to read as follows:

34 This section designates charter schools established under chapter
35 28A.-- RCW (the new chapter created in section 401 of this act) as

1 employers and charter school employees as members, and applies only if
2 the department of retirement systems receives determinations from the
3 internal revenue service and the United States department of labor that
4 participation does not jeopardize the status of these retirement
5 systems as governmental plans under the federal employees' retirement
6 income security act and the internal revenue code.

7 **Sec. 306.** RCW 41.05.011 and 2012 c 87 s 22 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Authority" means the Washington state health care authority.

12 (2) "Board" means the public employees' benefits board established
13 under RCW 41.05.055.

14 (3) "Dependent care assistance program" means a benefit plan
15 whereby state and public employees may pay for certain employment
16 related dependent care with pretax dollars as provided in the salary
17 reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or
18 other sections of the internal revenue code.

19 (4) "Director" means the director of the authority.

20 (5) "Emergency service personnel killed in the line of duty" means
21 law enforcement officers and firefighters as defined in RCW 41.26.030,
22 members of the Washington state patrol retirement fund as defined in
23 RCW 43.43.120, and reserve officers and firefighters as defined in RCW
24 41.24.010 who die as a result of injuries sustained in the course of
25 employment as determined consistent with Title 51 RCW by the department
26 of labor and industries.

27 (6) "Employee" includes all employees of the state, whether or not
28 covered by civil service; elected and appointed officials of the
29 executive branch of government, including full-time members of boards,
30 commissions, or committees; justices of the supreme court and judges of
31 the court of appeals and the superior courts; and members of the state
32 legislature. Pursuant to contractual agreement with the authority,
33 "employee" may also include: (a) Employees of a county, municipality,
34 or other political subdivision of the state and members of the
35 legislative authority of any county, city, or town who are elected to
36 office after February 20, 1970, if the legislative authority of the
37 county, municipality, or other political subdivision of the state seeks

1 and receives the approval of the authority to provide any of its
2 insurance programs by contract with the authority, as provided in RCW
3 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations
4 representing state civil service employees, at the option of each such
5 employee organization, and, effective October 1, 1995, employees of
6 employee organizations currently pooled with employees of school
7 districts for the purpose of purchasing insurance benefits, at the
8 option of each such employee organization; (c) employees of a school
9 district if the authority agrees to provide any of the school
10 districts' insurance programs by contract with the authority as
11 provided in RCW 28A.400.350; (d) employees of a tribal government, if
12 the governing body of the tribal government seeks and receives the
13 approval of the authority to provide any of its insurance programs by
14 contract with the authority, as provided in RCW 41.05.021(1)(f) and
15 (g); ~~(and)~~ (e) employees of the Washington health benefit exchange if
16 the governing board of the exchange established in RCW 43.71.020 seeks
17 and receives approval of the authority to provide any of its insurance
18 programs by contract with the authority, as provided in RCW
19 41.05.021(1)(g) and (n); and (f) employees of a charter school
20 established under chapter 28A.--- RCW (the new chapter created in
21 section 401 of this act). "Employee" does not include: Adult family
22 homeowners; unpaid volunteers; patients of state hospitals; inmates;
23 employees of the Washington state convention and trade center as
24 provided in RCW 41.05.110; students of institutions of higher education
25 as determined by their institution; and any others not expressly
26 defined as employees under this chapter or by the authority under this
27 chapter.

28 (7) "Employer" means the state of Washington.

29 (8) "Employing agency" means a division, department, or separate
30 agency of state government, including an institution of higher
31 education; a county, municipality, school district, educational service
32 district, or other political subdivision; charter school; and a tribal
33 government covered by this chapter.

34 (9) "Faculty" means an academic employee of an institution of
35 higher education whose workload is not defined by work hours but whose
36 appointment, workload, and duties directly serve the institution's
37 academic mission, as determined under the authority of its enabling

1 statutes, its governing body, and any applicable collective bargaining
2 agreement.

3 (10) "Flexible benefit plan" means a benefit plan that allows
4 employees to choose the level of health care coverage provided and the
5 amount of employee contributions from among a range of choices offered
6 by the authority.

7 (11) "Insuring entity" means an insurer as defined in chapter 48.01
8 RCW, a health care service contractor as defined in chapter 48.44 RCW,
9 or a health maintenance organization as defined in chapter 48.46 RCW.

10 (12) "Medical flexible spending arrangement" means a benefit plan
11 whereby state and public employees may reduce their salary before taxes
12 to pay for medical expenses not reimbursed by insurance as provided in
13 the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec.
14 125 or other sections of the internal revenue code.

15 (13) "Participant" means an individual who fulfills the eligibility
16 and enrollment requirements under the salary reduction plan.

17 (14) "Plan year" means the time period established by the
18 authority.

19 (15) "Premium payment plan" means a benefit plan whereby state and
20 public employees may pay their share of group health plan premiums with
21 pretax dollars as provided in the salary reduction plan under this
22 chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the
23 internal revenue code.

24 (16) "Retired or disabled school employee" means:

25 (a) Persons who separated from employment with a school district or
26 educational service district and are receiving a retirement allowance
27 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

28 (b) Persons who separate from employment with a school district
29 (~~or~~), educational service district, or charter school on or after
30 October 1, 1993, and immediately upon separation receive a retirement
31 allowance under chapter 41.32, 41.35, or 41.40 RCW;

32 (c) Persons who separate from employment with a school district
33 (~~or~~), educational service district, or charter school due to a total
34 and permanent disability, and are eligible to receive a deferred
35 retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

36 (17) "Salary" means a state employee's monthly salary or wages.

37 (18) "Salary reduction plan" means a benefit plan whereby state and
38 public employees may agree to a reduction of salary on a pretax basis

1 to participate in the dependent care assistance program, medical
2 flexible spending arrangement, or premium payment plan offered pursuant
3 to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

4 (19) "Seasonal employee" means an employee hired to work during a
5 recurring, annual season with a duration of three months or more, and
6 anticipated to return each season to perform similar work.

7 (20) "Separated employees" means persons who separate from
8 employment with an employer as defined in:

9 (a) RCW 41.32.010(17) on or after July 1, 1996; or

10 (b) RCW 41.35.010 on or after September 1, 2000; or

11 (c) RCW 41.40.010 on or after March 1, 2002;

12 and who are at least age fifty-five and have at least ten years of
13 service under the teachers' retirement system plan 3 as defined in RCW
14 41.32.010(33), the Washington school employees' retirement system plan
15 3 as defined in RCW 41.35.010, or the public employees' retirement
16 system plan 3 as defined in RCW 41.40.010.

17 (21) "State purchased health care" or "health care" means medical
18 and health care, pharmaceuticals, and medical equipment purchased with
19 state and federal funds by the department of social and health
20 services, the department of health, the basic health plan, the state
21 health care authority, the department of labor and industries, the
22 department of corrections, the department of veterans affairs, and
23 local school districts.

24 (22) "Tribal government" means an Indian tribal government as
25 defined in section 3(32) of the employee retirement income security act
26 of 1974, as amended, or an agency or instrumentality of the tribal
27 government, that has government offices principally located in this
28 state.

29 NEW SECTION. **Sec. 307.** A new section is added to chapter 41.56
30 RCW to read as follows:

31 In addition to the entities listed in RCW 41.56.020, this chapter
32 applies to any charter school established under chapter 28A.--- RCW
33 (the new chapter created in section 401 of this act). Any bargaining
34 unit or units established at the charter school must be limited to
35 employees working in the charter school and must be separate from other
36 bargaining units in school districts, educational service districts, or
37 institutions of higher education. Any charter school established under

1 chapter 28A.--- RCW (the new chapter created in section 401 of this
2 act) is a separate employer from any school district, including the
3 school district in which it is located.

4 NEW SECTION. **Sec. 308.** A new section is added to chapter 41.59
5 RCW to read as follows:

6 This chapter applies to any charter school established under
7 chapter 28A.--- RCW (the new chapter created in section 401 of this
8 act). Any bargaining unit or units established at the charter school
9 must be limited to employees working in the charter school and must be
10 separate from other bargaining units in school districts, educational
11 service districts, or institutions of higher education. Any charter
12 school established under chapter 28A.--- RCW (the new chapter created
13 in section 401 of this act) is a separate employer from any school
14 district, including the school district in which it is located.

15 **PART IV**

16 **MISCELLANEOUS PROVISIONS**

17 NEW SECTION. **Sec. 401.** Sections 101 and 201 through 225 of this
18 act constitute a new chapter in Title 28A RCW.

19 NEW SECTION. **Sec. 402.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

Originally filed in Office of Secretary of State May 31, 2012.
Approved by the People of the State of Washington in the General
Election on November 6, 2012.